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FIREARMS CONTROL

by

Helen B. Shaffer

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RICHARD M. BOECKEL, *Editor*

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FIREARMS CONTROL

OUTBREAKS of juvenile violence in American cities have brought fresh support for proposals to tighten public control over private ownership of firearms. The apparent ease with which young hoodlums can get guns and other lethal weapons is not the sole cause of concern. The daily newspapers record tragedy after tragedy resulting from lawful ownership of firearms—family quarrels terminated by gunshot, accidents in handling rifles or revolvers thought to be unloaded, seemingly normal individuals going suddenly berserk and firing into crowds. Reports of this kind add fuel to the demand for more stringent regulatory laws.

Agitation for new restrictive legislation almost invariably touches off protests from organizations like the National Rifle Association. These groups, which include sportsmen's associations and representatives of the firearms industry, assert that proposed ownership restrictions would not keep deadly weapons out of the hands of the lawless but would make it harder for law-abiding persons to defend themselves. The remedy, they insist, is more effective promotion of safety precautions and more effective training in proper use of firearms.

Those who object to rigid restrictions on private ownership of firearms frequently point out that the Constitution protects "the right of the people to keep and bear arms." The Constitution, however, relates that right to maintenance of "a well regulated militia,"¹ and the Supreme Court has held that a provision of the National Firearms Act of 1934 forbidding movement in interstate commerce of unregistered shotguns does not infringe the constitutional right because it has no reasonable relationship to the preservation or efficiency of a well regulated militia.²

¹ The Second Amendment to the Constitution reads in full: "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

² *United States v. Miller*, 307 U.S. 174 (1939).

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The federal constitutional provision is a limitation only upon the power of Congress, not upon powers of the states, although a similar provision appears in many state constitutions. State statutes prohibiting the carrying of concealed weapons have been specifically upheld. All told, neither federal nor state constitutional mandates appear to impose serious restraints on regulatory control of firearms.³

SUPPORT FOR STRICTER CURBS ON LETHAL WEAPONS

Not since Congress enacted the first major national control legislation 25 years ago has there been so much interest in regulation of ownership and use of firearms. Public sentiment now appears to favor strengthened legal restrictions. A recent Gallup poll found substantial majorities "definitely of a mind to place some kind of restriction on the use of guns." Publication of the poll, Sept. 4, showed that 59 per cent of the individuals expressing an opinion favored restricting possession of hand guns, such as pistols and revolvers, to the police; only 35 per cent of the respondents were opposed. Fifty-three per cent favored making it unlawful to have a loaded gun in one's home, and 85 per cent approved rigid restraints on use of guns by teenagers.

Approximately 1,000 bills relating to manufacture, transportation, sale or use of firearms have been introduced in state legislatures during the past half-dozen years. Several measures to strengthen federal firearms statutes are pending in the present Congress. Federal legislation is considered necessary to curb the flow of cheap weapons from abroad⁴ and to overcome enforcement weaknesses resulting from variations in state laws. A favored approach is to make it a federal offense to ship a weapon into a state where its possession would be barred under state law.

Chairman Thomas C. Hennings (D Mo.) of the Senate Judiciary Subcommittee to Investigate Juvenile Delinquency has endorsed proposals to tighten federal controls over interstate shipment of guns and other weapons. Hen-

³ An old decision of a state court said the Second Amendment "must be held to refer to the weapons of warfare to be used by the militia, such as swords, guns, rifles, and muskets—arms to be used in defending the state and civil liberty—and not to pistols, bowie knives, brass knuckles, blillies, and such other weapons as are usually employed in brawls, street fights, duels, and affrays, and are only habitually carried by bullies, blackguards, and desperadoes, to the terror of the community and the injury of the state."—*State v. Workman*, 36 W. Va. 372 (1891).

⁴ The British government was reported, Nov. 2, to have sold about 1,000,000 surplus small arms this year, mostly to American dealers.

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nings declared on Sept. 22 that "The business of selling guns by mail [and] shipping across state lines . . . has to be stopped." Some form of registration for hunters, he said, might be worked out to safeguard their legitimate interest in ownership of guns for killing game.

WEAPONS CONTROL PROPOSALS IN NEW YORK CITY

At subcommittee hearings in New York on Sept. 23, both Gov. Nelson A. Rockefeller and New York City Mayor Robert F. Wagner advocated stronger federal controls over firearms traffic. New York City Police Commissioner Stephen P. Kennedy called for a federal law requiring out-of-state shippers to give local police the names of persons to whom firearms or ammunition are delivered. Mayor Wagner and New York City's five district attorneys proposed a seven-point program on Oct. 15 to enable the police and courts of the metropolis to deal more effectively with youth crime. One of the proposals was to amend state law to make all members of an unlawful assembly equally responsible for possession of an outlawed weapon by any one of them. Other proposals were to make it a felony under state law to carry an exposed (as well as a concealed) pistol or revolver that was loaded, and to outlaw by municipal ordinance the possession on a public thoroughfare by anyone under 21 years old of "a knife or sharp-pointed or cutting instrument."

New York Supreme Court Justice John E. Cone, who heads a six-year-old Committee to Ban Teen-Age Weapons, has asserted that two-thirds of the deaths and injuries caused in the United States by firearms could be prevented by improved legislation and better law enforcement. He has urged federal registration of all firearms in private possession. Congress last year made it a federal offense to ship switchblade or gravity knives⁵ into any state in which possession of such weapons is unlawful. The juvenile delinquency subcommittee said in its report on the switchblade bill that although 20 states had "an explicit prohibition against the sale of the automatic-opening knife, and many more have a general kind of prohibition against possession with intent to use any kind of dangerous article," around 1.2 million of the knives are sold annually.

⁵ The blade of a switchblade knife is ejected by pressing a plunger; the blade of a gravity knife is ejected by a jerk of the wrist.

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Many were said to be distributed by mail order concerns in states that forbid their sale or possession.

DEADLY WEAPONS IN ARSENALS OF JUVENILE GANGS

Legislation to control distribution of dangerous weapons admittedly will not remove the causes of juvenile delinquency, but it may help to curtail the damage inflicted by delinquents. One of the alarming aspects of teen-age delinquency today is the tendency of gang members to go about city streets carrying concealed weapons, which they are prepared to use on little provocation. Young gangsters show considerable resourcefulness in creating their own arsenals out of commonplace materials like bottles, iron pipes, gasoline, and rubber bands. A shocking percentage of them manage also to arm themselves with guns and with knives of peculiarly lethal design.

Two days before the subcommittee on juvenile delinquency opened hearings in New York last September, a 16-year-old boy was ambushed and shot on the steps of a high school. The young killer told police afterward that it was "all a mistake." He said: "I never wanted to shoot anyone. I had a gun in my pocket. . . . When I pulled it out, it went off." New York police three days later rounded up 27 members of two teen-age gangs shortly before the zero hour for a battle to avenge the slaying. One group was apprehended on a roof with a loaded shotgun, a box of .22 caliber bullets, two hunting knives, and nine home-made gasoline bombs. Another 21 boys were arrested in three automobiles in which they had cached a zip gun* and a switchblade knife (illegal in New York).

New York police on Oct. 7 raided the apartment of a 16-year-old girl in Greenwich Village, where they found two loaded automatic pistols. A loaded carbine, two switchblade knives, a blackjack, and several ounces of marijuana were found the same night in the apartment of an older friend of the girl. Justice Cone told the Senate subcommittee on Sept. 23 that nearly 700 youths aged 16 through 20 had been arrested in New York City in 1958 for possessing dangerous weapons, an increase of almost 700 per cent since 1940. Although the total number of youths in the city had declined 28 per cent in that period,

*A zip gun is a home-made weapon consisting of a metal tube, which serves as gun barrel, and tightly twisted rubber bands which will propel a missile with considerable force. Zip guns may be lethal.

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the number arrested for felonious assault (1,148) represented a fivefold increase. Police displayed for the committee a collection of weapons taken from youngsters under 16 years of age. The arsenal included pistols, a sawed-off shotgun, zip guns, an industrial conveyor belt studded with staples, a rubber hose, and a stick wrapped in a chain.

The switchblade knife is known to be not only a favored weapon but also virtually a badge of office for many teenage gang members. Rep. James J. Delaney (D N.Y.), formerly assistant district attorney in Queens County, told a congressional committee last year that switchblades came into common use by juveniles around the turn of the decade. "In the gatherings of juvenile gangs and clans," he said, "nearly every one of them has a switchblade. It is a ritual with some of them to carry switchblades. . . . A great number of girls carry them also . . . in their purses. . . . They are formidable weapons, particularly when . . . put at your throat."⁷

Questionnaires returned by police chiefs to the Senate subcommittee on juvenile delinquency indicated "almost without exception . . . that these vicious weapons are on many occasions the instrument used by juveniles in the commission of robberies and assaults." A survey of 133 distributors of switchblades showed that 75 per cent of their mail orders came from juveniles under 20; more than two-fifths of the group were between the ages of 11 and 15.

EASY ACCESS TO FIREARMS; ADVERTISING OF ARMS

The disturbing part of this picture is the ease with which juveniles, criminals, and the emotionally unstable can obtain lethal weapons despite some regulation of firearms in every state and in most municipalities. The juvenile delinquency subcommittee reported last year that "Many firearms are moving across state lines and falling into the hands of young persons without the knowledge of authorities." Police chiefs confirmed the subcommittee's impression that "Firearms can move with considerable freedom from state to state in a manner sometimes inimical to the public good."

Guns are widely advertised for shipment to individual buyers in periodicals which appeal to juveniles, and the

⁷ Testimony before House Interstate and Foreign Commerce subcommittee, Apr. 17, 1958.

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prices are often within the reach of a teen-ager's purse. Although firearms are barred from the U.S. mails, orders for them may be transmitted by mail. A recent advertisement by a New Jersey concern in a Washington, D. C., newspaper, for example, offered for \$6.95 a four-inch, six-shot repeater, .22 caliber pistol that "fits easily into pocket or purse." A "swap-and-sell" column of the teen-age section of another Washington paper included among advertisements for puppies and jalopies an offer of a pistol for \$15.

New York City's police commissioner estimated on Aug. 11 that more than 40,000 cheap dud pistols, made in West Germany, had been shipped to that city and converted to live weapons for sale around the country. The imported weapons, entering with solid barrels, were liable to a 12 per cent duty instead of the 52 per cent duty applying to usable weapons. But the shipments included bored barrels with identical serial numbers. It was thus easy for gunsmiths to substitute the open for the sealed barrels. The converted weapons, priced at around \$10 each, found a ready market. The police commissioner later told the Senate subcommittee that a number of the converted foreign pistols had come into the hands of criminal elements and juvenile delinquents. They had been used in robberies, teen-age gang wars, and for "a number of homicides."

Discovery last year of several caches of arms destined for clandestine export to the revolutionary forces of Fidel Castro in Cuba demonstrated the ease with which firearms can be acquired in this country. U.S. authorities seized a quarter of a million dollars' worth of small arms in various raids. One cache in a Miami Beach motel included 45 automatics, two submachine guns, 5,000 rounds of ammunition, and four cases of dynamite. The weapons were obtained by making numerous small purchases and by buying gun parts and war souvenirs for later assembly.

ANNUAL TOLL OF SHOOTINGS IN THE UNITED STATES

Criminals or delinquents are responsible for a relatively small percentage of the total number of firearms casualties. The vast majority of deaths and injuries result from careless handling of weapons by their lawful owners, from accidents apt to occur when firearms are left within reach of children, from suicides, and from actions of normally law-abiding persons who grab a gun in a moment of anger.

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Latest figures from the U.S. Office of Vital Statistics show that firearms caused around 14,000 deaths in the United States in 1957; 4,010 of the deaths resulted from assault, 7,841 from self-inflicted injury, and 2,369 from accidents. Although the number of deaths from firearms constituted less than one per cent of the 1.6 million deaths from all causes that year, the circumstances of casualties of this kind are usually such as to draw public attention. The number of persons wounded by firearms annually is not known, but an estimated 100,000 are injured each year by deadly weapons of all kinds.

Casualties inflicted by three shootings in the Washington, D. C., metropolitan area on Sunday, Oct. 4, illustrate what may happen when firearms are easily accessible and are not treated with due respect. A baby was shot to death by its father, who forgot that his gun was loaded; a bullet fired at the sidewalk in a fit of temper ricocheted and wounded an 11-year-old boy; a grocer pulled out his store gun and shot and wounded a man with whom he had been arguing. Two days later, a University of Virginia student was paralyzed by a bullet wound in the back while driving his car; fellow riders had been taking turns shooting at road signs with a .22 caliber pistol, which was accidentally discharged as it was passed to a youth in the back seat.

Experience in handling firearms does not insure against unintentional maiming or killing of innocent persons. Most often the victim is a member of the family or a close friend, which compounds the tragedy. The Falls Church, Va., police chief was recently reported to be under psychiatric care as the aftermath of a shooting accident; he was showing a friend a new German Luger, as they sat together at a drug store lunch counter, when the gun suddenly went off and killed the other man.

State and Federal Regulatory Laws

NO ONE KNOWS how many firearms are privately owned in the United States, because registration is not universally required. One estimate places the total at 50 million. An estimated 15 million Americans are confirmed hunters, and each hunter is likely to own more than one weapon. Ac-

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cording to a Gallup poll published in September, at least half of all American householders own guns; in the South there are firearms in two out of three homes, in the East in three out of 10, and the ratio in other parts of the country is close to the national norm. Guns are found in four out of five farm homes.

Rifles and shotguns are the favored weapons, but the poll showed that 16 per cent of the nation's homes had pistols or revolvers on the premises. The predominance of the longer guns is not surprising. They are essentially hunters' and sportsmen's weapons and may be purchased anywhere in the United States without a license by anyone over a certain age—usually 16 or 18.⁸

There is reason to believe that ownership of firearms has increased in recent years. An untold number of servicemen brought guns home from World War II as souvenirs.⁹ So many automatic machine weapons came into the country in this way that the Treasury Department launched a "Deactivated War Trophy" program, known as DEWAT, to render them harmless.¹⁰

More recently, TV westerns are believed to have caused an upsurge of interest in hand guns. An article in a business publication last year reported that cowboy shows on television were responsible for doubling sales of Colt firearms in a two-year period.¹¹ The majority of the buyers were said to be collectors, sharpshooters who go in for "plinking" (firing at tin cans), and members of fast-draw clubs. The hundreds of fast-draw clubs that have sprung up among addicts of western movies are something new.¹²

⁸ In some states youths under the specified age may purchase rifles or shotguns with parental consent.

⁹ Rep. Lester Holtzman (D N.Y.), author of several bills to forbid members of the armed forces to bring pistols or revolvers into the country, has said that a single troopship from Europe carried 50,000 contraband weapons.

¹⁰ With the help of volunteer committees, local police, and representatives of gun and rifle clubs, some 1,500 centers were set up around the country where the weapons could be taken to be welded so that they could not be fired. The programs embraced all types of firearms, including trophies of earlier wars and collectors' items. More than a million pieces were deactivated.

¹¹ George F. Hoover, "TV Is Colt's Best Sales Gun," *Sales Management*, March 21, 1958, p. 56.

¹² Several tragic accidents have occurred during quick-draw practice. In Woodbridge, Va., on Oct. 4 a three-year-old boy was killed while watching his father practice a quick draw in the kitchen of their home; the man had forgotten that he had loaded the .22 caliber pistol the day before because of reports of a prowler in the neighborhood. In an almost identical accident last Christmas Eve, a Chicagoan killed his 14-month-old son, named Wyatt Earp after the TV western hero. The latest of these accidents was reported Nov. 6 from Ridgeville, Ind. In this case a wife was killed by her husband in a fast-draw contest.

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Members enter competitions for speed in drawing guns from holsters and firing. The quick-draw fans are urged by the National Rifle Association to use blank cartridges, as many presumably do, but there is no law to prevent them from using live cartridges if they see fit.

STATE BANS ON CARRYING OF CONCEALED WEAPONS

Gun-toting was common practice in the early days of the republic when unlit streets and frontier lawlessness made it hazardous in many places to go abroad unarmed. No state attempted to regulate private use of firearms until 1813; in that year Kentucky, then a backwoods region where "the gun was the law," made it a statutory offense to carry a concealed pistol. A state court declared the law unconstitutional in 1822, and it was not until three decades later that the Kentucky constitution was amended to permit re-enactment of the measure. Several other states meanwhile had forbidden carrying of concealed weapons.

Today all states regulate carrying of concealed weapons, usually through licensing procedures which grant the privilege to qualified citizens who can show real need. The state laws are supplemented by municipal regulations governing issuance of concealed weapons permits. An article in a law journal several years ago cited the following reasons for emphasis on concealment in weapons laws: (1) the assumption that an individual is less likely to be drawn into a fight if he has a weapon in plain view; (2) traditional abhorrence of sneak attacks; and (3) belief that a ban on concealed weapons will deter gun-carrying, because most people will not carry a small arm, unless intended for sport or hunting, if it must be kept exposed.¹³

Concealed weapons laws were directed originally almost entirely at carrying of pistols or other small arms. Many of the statutes, however, were broadened to cover either deadly weapons in general or additional specified weapons. The ingenuity of individuals bent on inflicting death or injury on others is reflected in the additions to the list. The Texas law, for example, catalogues "pistol, dirk, dagger, slung shot, blackjack, hand chain, night stick, pipe stick, sword cane, spear, knuckles made of any metal or any hard substance, bowie knife, switch blade knife, spring blade knife, throw blade knife, a knife with a blade over

¹³ Gardner L. Turner, "Criminal Law—the Law as to Concealed Deadly Weapons," *Kentucky Law Journal*, Summer 1955, p. 524.

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5½ inches in length or any other knife manufactured or sold for the purposes of offense or defense." New York's concealed weapons law also has a long list of banned articles, including sandbag, bludgeon and stiletto.

Efforts of state legislatures to deter carrying of lethal weapons by criminals have led to difficulties in prosecution, because so many ordinary objects can be put to violent use. The hand chain was added to some state lists because police found ruffians armed with lengths of chain, some of the chains having hand-grips at one end and padlocks or other heavy objects on the "business" end. But last year a Texas appeals court reversed a conviction for carrying a concealed hand chain on the ground that the law was vague and the chain might have been carried for a legitimate purpose.

VARIATIONS IN CONCEALED WEAPONS LAWS

There is considerable variety in state laws and in interpretations by state courts of laws pertaining to concealed weapons. Some of the laws make exceptions for concealed weapons that are being taken home from a store in a box or that are being carried to a repair shop or a club shoot. Other laws exempt carrying of unloaded or dismantled pistols. Courts have differed in defining concealment; conviction in some cases has turned on whether the glove compartment of the car in which a gun was stored was locked or unlocked.

A few states require proof of intent to inflict injury with a concealed weapon. But in most cases when the question of intent comes up in a trial, the defendant's intent to conceal the weapon rather than his intent to use it for a nefarious purpose is the point at issue. Penalties vary widely. Kentucky amended its law in 1946 to make it a felony rather than a misdemeanor to carry a concealed weapon; although it was hoped that the heavier penalty would be a deterrent, its chief effect was to make conviction more difficult. The *Kentucky Law Journal* commented: "Possibly in Kentucky, a state composed of people . . . known for their gun-toting propensities, it is too much to ask a jury to find a fellow guilty of a crime which will subject him to a minimum of two years in the state penitentiary."¹⁴

¹⁴ *Ibid.*, p. 534.

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LICENSING LAWS; BANNING OF SAWED-OFF SHOTGUNS

Early firearm laws dealt with the manner of carrying rather than with the possession or purchase of weapons, and they pertained almost entirely to arms which could be easily concealed on the person. Present statutes for the most part follow the same pattern, but with adoption of the Sullivan Law in New York in 1911 a new element was introduced. That is the requirement that a license be obtained for purchase of a concealable weapon and another license for possession of the weapon.

Under the New York law as it now stands, licenses are issued by police commissioners or judges to citizens able to show "proper cause" for ownership. Licenses may not be granted to anyone who has been convicted or is under indictment for a felony or for specified misdemeanors. A license, once issued, may be withdrawn for good reason; New York authorities recently refused to renew the license of a rifle instructor with a spotless record because his son with whom he lived had been in trouble with the police.

Seven other states have enacted legislation similar to the Sullivan Law: Massachusetts, Michigan, Missouri, New Jersey, North Carolina, North Dakota, and Tennessee. Tennessee imposes an outright ban on sale of hand weapons. Certain other states prohibit sale of small weapons to juveniles, to aliens, or to felons. Five states and the District of Columbia require a waiting period of several days between application for purchase and delivery of a weapon; the purpose is to prevent an impulsive killing or suicide. Approximately 20 states require a license to carry a gun outside the home.

In the late prohibition period, when attention was turned to use of machine guns and sawed-off shotguns by gangsters, laws were passed to outlaw civilian ownership of weapons which obviously were suitable only for purposes of war or crime. Laws of more than half the states now make it virtually impossible for an ordinary citizen to acquire a machine gun or sawed-off shotgun unless it is permanently sealed and thus of value only as a curio.

FEDERAL REGULATIONS ON THE TRAFFIC IN FIREARMS

The federal government entered the weapons control field during the 1930s, primarily to curb activities of criminal mobs. At a hearing on proposed firearms legis-

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lation in 1934, the U.S. Attorney General said there were at least 500,000 lawless persons "who are carrying about with them or have available at hand weapons of the most deadly character."¹⁵

Existing federal law on firearms is embodied in two statutes providing for control of firearms traffic under the power to tax and the power to regulate interstate commerce. The National Firearms Act of 1934, often referred to as the "machine gun act," imposes license taxes of \$500 a year on manufacturers and importers, \$300 on pawnbrokers, and \$200 on others who make, transport, or sell (1) weapons designed to fire more than one shot without manual reloading, (2) shotguns or rifles with barrels less than 18 inches long, and (3) mufflers or silencers for these weapons.

A tax of \$200 is imposed on every sale of such weapons. Importers, manufacturers, and dealers must register annually with the Treasury Department, and no sales may be made unless the purchaser has filled out an application blank carrying fingerprints and photograph. Maximum penalty for violation of the act is a fine of \$2,000 and imprisonment for five years. The effect of the law has been virtually to put an end to legitimate private ownership of machine guns and sawed-off shotguns in firing condition.

Congress in 1938 enacted the Federal Firearms Act, which attempted to prevent sale of any firearm, ammunition, or silencer to lawless elements of the population. Manufacturers and dealers were required to obtain licenses to carry on their business in interstate commerce. It was made a federal offense to ship firearms or ammunition in interstate commerce to violators of the licensing requirement, to persons under indictment or previously convicted of a crime of violence, or to fugitives from justice, and receipt of arms or ammunition by such persons likewise was made unlawful. Transporting of stolen arms or arms from which the manufacturer's serial number had been removed also was outlawed.

¹⁵ Testimony of Homer S. Cummings before House Ways and Means Committee, Apr. 16, 1934.

Place of Firearms in Community Life

FIREARMS REGULATION represents an effort to solve a dilemma; on one hand to protect the citizen from illicit or incompetent use of firearms, on the other to preserve the citizen's right to protect himself and his family from assailants and his right to use firearms for recreational purposes. Settlement of the controversy over controls hinges largely on striking a generally satisfactory balance between gains to be anticipated from curbing of crime or accident attributable to firearms, and losses to be suffered from encroachments on individual rights.

CONTROVERSY ON VALUE OF GUNS TO PROTECT HOME

There is virtually no opposition to laws banning private ownership of machine guns, there being no conceivable purpose for which a law-abiding citizen could need such a weapon in working order. Collectors generally raise no objections to having weapons curios or trophies rendered harmless by sealing the barrels or deactivating the firing mechanism.

There is considerable controversy, however, over whether it should be made more or less difficult for the individual citizen to acquire a pistol, revolver or other small arm. The usual justification for possessing such a weapon is personal or family protection. But a large percentage of firearms accidents take place when children get hold of a loaded revolver left on a closet shelf, in a bureau drawer, or in some other accessible place around the house.

The National Rifle Association insists that the answer to the accident problem is education of the public in safe and proper handling of firearms. If families owning guns kept them properly stored under lock and key where children could not get them, if no one indulged in horseplay with firearms or took it for granted that a gun was not loaded, and if other precautions were always observed, accidents of this kind would rarely occur.

The association contends that a complete ban on private ownership of firearms would constitute denial of the fundamental right of self-defense. A handy gun in the house or in the car has unquestionably prevented many crimes of violence. Wide publicity was given, for example, to the

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killing of a bank robber in the home of Carl Barker, manager of the Bank of Eclectic, Ala., on July 11. Barker, who with his pregnant wife and child was being held hostage pending the hour when the time-locked bank vault could be opened, used a ruse to disarm the robber's watching accomplice. After knocking him out, he got his own .16-gauge shotgun from a closet and loaded it just in time to shoot the returning ringleader as he came in the front door.

Persons who take exception to the gun-as-defense argument consider Barker a lucky one in a million. They assert that to reach for a gun is in most cases the most dangerous thing to do when a burglar or prowler is on the premises. The householder is almost always at a disadvantage in such a contest, because the intruder is likely to be armed, alert, experienced, and ready to fire. There have been cases when nervous gunowners have shot innocent persons whom they believed to be prowlers or burglars. A widely publicized instance of such a killing occurred in the early morning of Oct. 30, 1955, when Mrs. William Woodward, Jr., mistook her financier-husband for a prowler in their Oyster Bay, L. I., home.

REGULATION OF FIREARMS AS A CRIME DETERRENT

Most firearms regulations are designed to deter crime rather than to prevent accidents. They are supposed to make it more difficult for criminals to obtain weapons. They are supposed also to help police apprehend criminals by facilitating tracing of weapons used in crimes; to prevent crime by enabling police to arrest potential or suspected murderers on weapons charges; and to keep guns out of the hands of minors, mental incompetents, drug addicts and other unreliable persons.

There is some question about how far existing legislation has been successful in reducing crime. The machine gun laws have kept this weapon largely out of the hands of mobsters, but they have not necessarily kept mobsters from engaging in criminal violence. Most weapons used by confirmed criminals are stolen or otherwise illicitly obtained. Few individuals planning a murder bother to apply for a gun license, and no juvenile ever is licensed to own a revolver. In Washington, D. C., which has relatively stringent control legislation, police reported that "hot"

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guns—that is guns stolen or otherwise illicitly obtained—were used in virtually all of the 223 shootings and 18 gun murders committed in the year ended June 30, 1957, and in 20 per cent of the city's robberies that year. Suspects usually said they "found" their guns or bought them from "friends."¹⁶ Gun theft would be less prevalent, however, if lawful gun ownership were restricted more rigorously.

As for suicides and impulse crimes, committed by otherwise law-abiding citizens under stress, the question of the weapon used may be immaterial. An individual bent on destroying himself or some person against whom he has a grievance has a wide choice of weapons, including many normally innocuous objects. On the other hand, easy access to a revolver or rifle may well be the final touch-off to murder. The occasional instance of family murder by an individual whose criminal impulses had been unsuspected falls in this category. Such a case occurred in Rye, N. Y., on May 23, 1957, when 14-year-old Andrew Casey, known as a good, average boy, suddenly picked up his brother's .22 caliber rifle and killed his mother and sister. "I just got depressed like," he told police.

FIREARMS CONTROL LAWS AND HOMICIDE RATES

Efforts to show a connection between firearms legislation and crime rates have been inconclusive. Advocates of more restrictive laws often point to the relatively low murder rate in England, which has a stringent licensing system.¹⁷ Central registration of all existing firearms often is recommended as a means of making it more difficult for criminals or potential criminals to get possession of weapons. But Mexico, which has such a law, is reported to have one of the highest homicide rates in the world.

Among the American states, murder rates per 100,000 population in 1957, latest year for which these data are available, ranged from 16 in Alabama to no murders at all in North Dakota. The southern states, where gun ownership is most prevalent, have relatively high murder rates; New York, which has a strong law, had a rate of three murders per 100,000; the New York City rate was four compared with 18 in Houston, 10 in St. Louis, 9 in Wash-

¹⁶ *Washington Post*, Aug. 4, 1958.

¹⁷ In England, no one may purchase or have in his possession any firearm unless he has been issued a police certificate specifying the purpose for which the weapon is needed. The police have extensive powers to withhold or withdraw weapons if in their judgment an individual is not to be trusted with them.

ington, D. C., and 7½ in Chicago. Yet a review of weapons laws in a Texas law journal concluded that "There is no evidence to indicate that, acting alone, laws requiring the registration of privately owned firearms have any effect on the rate at which murders and homicides are committed . . . [and] once the homicidal intent is formed, the instrument to be used is only incidental."¹⁸

NATIONAL DEFENSE ASPECTS OF FIREARMS CONTROLS

A basic difference in the opposing positions on firearms regulation is that one side sees danger in widespread ownership of lethal weapons and the other sees danger in lack of a well-armed citizenry trained in use of firearms. Much of existing regulation is regarded by the latter group as mere harassment of gun owners, or a deterrent to gun ownership by good citizens. The National Rifle Association in particular objects to laws which give the police wide discretionary powers to grant or withhold permits to carry small weapons for self-defense. Where licenses to purchase guns are required, authority to issue them is frequently vested in the local police; the rifle association feels that such power is subject to abuse.

Any regulation to discourage acquisition of firearms is regarded as risky on the ground that it would deprive the nation of valuable skills, to say nothing of an arsenal of private weapons, in time of national danger. It is pointed out that when England faced possible invasion after the fall of France, the country was virtually defenseless. The army had lost most of its arms and equipment across the English Channel, and few civilians possessed small arms or were trained in their use.

The National Rifle Association opposes any national registration of firearms out of fear that a central gun roster might some day fall into the hands of an invader. Poland, the Low Countries, France, Denmark and Norway all had firearms registration laws before World War II, and the registration records were said to have provided Nazi invaders with handy lists of weapons for seizure.

The association favors more vigorous action to encourage people to learn how to use firearms properly and safely. It sponsors a Hunter Safety Training Program which is

¹⁸ William C. Shend, "Do Laws Requiring Registration of Privately Owned Firearms Lower Murder Rate?" *South Texas Law Journal*, Summer-Fall 1958, pp. 330-331.

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now supported by legislation in more than a dozen states. The laws either require that the applicant for a hunter's license pass a course in safe gun handling or provide for instruction in safe gun handling in the schools. The program has been extended to some states without supportive legislation through voluntary cooperation of official agencies.¹⁹

Public sentiment still leans toward keeping a closer check on who may buy or use deadly weapons. It seems clear that in general the laws now in effect are not adequate, or are not sufficiently well enforced, to keep lethal weapons out of the hands of criminals, incompetents, emotionally unstable individuals, and children. The National Rifle Association itself has suggested that penalties for the commission of crimes while armed should be more severe, and that it would be "desirable to require purchasers of firearms to identify themselves and to require dealers to maintain records of sales."

¹⁹ New York in 1949 enacted the first law requiring youths under 16 to take a course in safe gun handling before receiving hunting licenses. New Hampshire enacted the first measure providing for safe hunting courses in the schools. Other states with similar measures include Arizona, California, Connecticut, Massachusetts, Minnesota, Montana, Rhode Island, Vermont and Washington. The fish and game departments in Idaho, Oklahoma and Ohio operate state-wide voluntary programs; similar programs have recently been instituted in Florida, Illinois, Missouri and Utah.





